In the Supreme Court

OF THE

United States

OCTOBER TERM, 1970

Supreme Court, U.S.
FILED
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E. ROBERT SEAVER, CLERK

No. 215

GREYHOUND LINES, INC., *Petitioner*,

vs.

THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF SHASTA, *Respondent*,

MARY CHISEFSKI, EDWARD W. HOLLENBECK, JAMES BRIGGS, ZOLA MAYDEN, GARY L. HENRY,
Real Parties in Interest

PETITIONER'S REPLY BRIEF TO BRIEF IN OPPOSITION TO PETITION FOR A WRIT OF CERTIORARI to the Court of Appeal of the State of California in and for the Third Appellate District

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THERE IS A FINAL JUDGMENT

Respondent's statement that there is no final judgment on any of the issues involved in the petition, is clearly in error. The Court of Appeal of the State

of California, Third Appellate District, decided the constitutional questions presented in this petition on the merits and concluded that: "since we are here unhampered by any controlling federal law or regulation, we conclude that under current California decisional law it is for the jury to decide whether the carrier's failure to provide seat belts amounted to negligence." (Appendix B, xvii.)

Inasmuch as the California Supreme Court denied a petition for hearing, the foregoing pronouncement by the Court of Appeal is the controlling law in the State of California.

Petitioner has no further recourse before the California courts from this judgment which will permit trial court juries throughout the State of California to regulate safety equipment to be installed on interstate motor carriers. The judgment denying petitioner's petition for a writ of prohibition is therefore final and is subject to review by this Court because it is well recognized that:

> ". . . The proceeding for a writ of prohibition is a distinct suit and the judgment finally disposing of it is a final judgment within the meaning of section 237(a) of the Judicial Code."
>
> *Bandini Petroleum Co. v. Superior Court*, 284 U.S. 8; 76 L.ed. 136, 141 (1931).

A TRIAL WOULD SERVE NO USEFUL PURPOSE

Respondent's further suggestion that the case should be tried in order to sharpen the issues, is also without merit. The sole question to be decided by this Court is

whether a superior court jury has the jurisdiction to require an interstate motor carrier to equip its buses with passenger restraints when the Department of Transportation has decided that such a requirement is unwarranted. The issue could not be more clearly defined. Since the issue presented is purely a question of law, a trial would serve no useful purpose. This Court is not being asked to determine whether seat belts should or should not be required. This Court is being asked to decide what is the proper agency to make that determination.

The only thing to be gained by a trial would be another two or three years of delay with fruitless appellate proceedings at the State level. During this time, conflicting decisions will doubtless be rendered by other jurisdictions in the fifty States which will serve to only further confuse and frustrate the federal regulatory scheme and burden interstate commerce.

For the reasons stated above, it is respectfully requested that this petition be granted now.

Dated, San Francisco, California,
October 2, 1970.

Respectfully submitted,
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